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**CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM**

PROJECT NAME : Boston East
PROJECT LOCATION : 103-148 Border Street - East Boston
PROJECT WATERSHED : Boston Harbor
EOEA NUMBER : 14123
PROJECT PROPONENT : Trinity Border Street, LLC
DATE NOTICED IN MONITOR : November 12, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L., c. 30, s. 61-62H) and Sections 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that the above project requires the preparation of a mandatory Environmental Impact Report (EIR).

According to the Environmental Notification Form (ENF), the proposed project consists of the construction of 241,859 square foot (sf) 196-unit residential development. The project will include a 1,840 sf community gallery within the residential building, a 20,000 sf marine industrial building, 560 sf finger piers (2) supporting a marine travel lift, 50,318 sf of open space, and 750 linear feet of Harborwalk (12 feet wide) along the entire waterfront side of the site. The project is comprised of two development areas: one on the Non-Designated Port Area with a residential building, and a second area located within a Designated Port Area (DPA) on the south side of the site that includes a two-story marine industrial facility with finger piers and a marine travel lift. Thirteen percent (26) of the residential units will be affordable. The site contains about 3.4 acres of land that is vacant of structures, and consists of filled and flowed Commonwealth tidelands. The project site also contains approximately 10.8 acres of watershed.

The project is subject to a mandatory EIR pursuant to Section 11.03(3)(a)(5) of the MEPA regulations because it requires a Chapter 91 License for more than one acre of new non-water dependent use of tidelands. It may require a 401 Water Quality Certificate, a Construction

Dewatering Permit, a Notification of Construction and Demolition, Compliance with the Massachusetts Contingency Plan, and a Chapter 91 Waterways License from the Department of Environmental Protection (MassDEP). The project will require approval of an amendment to the Municipal Harbor Plan (MHP) by the Executive Office of Energy and Environmental Affairs (EEA). The Massachusetts Historical Commission (MHC) will evaluate the project impacts to potential historical resources. The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. The project may require a Notice of Construction and a Section 10/Section 404 Programmatic General Permit from the U.S. Army Corps of Engineers. It may need to undergo Federal Consistency Review by the Massachusetts Coastal Zone Management (MCZM) Office. The project will require an Order of Conditions from the Boston Conservation Commission. Because the project site requires a Chapter 91 Waterways License, MEPA jurisdiction extends to any aspects of the project that may have significant environmental impacts.

Access to the proposed parking garage will be from Border Street. Another driveway for residential off-street loading is on the north side of the site, and a third driveway to the surface parking lot will also be provided onto Border Street. Using the Institute of Traffic Engineers Trip Generation land use codes 232 for High Rise Residential Condominium/ Townhouse and 110 for General Light Industrial use, the proponent has estimated that the project will generate approximately 1,303 unadjusted new average daily vehicle trips. The proponent will provide 165 parking spaces (about 0.7 parking spaces per unit). There will be 26 surface parking spaces reserved for the marine industrial use and 139 spaces within the parking garage reserved for the residences.

The proposed project will be connected to existing municipal water and sewer service. It will consume approximately 37,224 gallons per day (gpd) of water and will generate 33,840 gpd of wastewater flow.

The project is subject to review by the BRA under the Article 80 Large Project Review process of the Boston Zoning Code. Accordingly, the proponent will prepare a Project Impact Report (PIR). It is my view that the planning for this project would be best served by a coordinated review and the submission of a single set of documents to satisfy the requirements of both MEPA (Section 11.09(4)(c)) and the BRA (Section 80-6). The proponent should coordinate this joint review process with both agencies to establish the necessary review periods.

The proposed project would require an amendment to the MHP and the proponent has indicated that it will work with the City to amend the MHP. In accordance with the MHP regulations at 301 CMR 23.04, such an amendment requires a public review process, prior to a decision on the amendment by the Secretary of Energy and Environmental Affairs. The public process should be coordinated by the City of Boston under the guidance of the MCZM Office.

The proponent has the ability to coordinate the MEPA and MHP amendment processes to provide a timely and efficient mechanism to review project design, programming, and decision-

making. The DEIR should be used as the vehicle for publishing a public hearing draft of the City's proposed amendment(s). The FEIR should not be submitted until the MHP process has been completed to ensure that all relevant terms and conditions of this approval are resolved prior to the FEIR Certificate.

SCOPE

This EIR should follow the MEPA Regulations at 301 CMR 11.07 for outline and content, as modified by this scope and the Article 80 requirements. It should address the comments listed at the end of this Certificate, to the extent that they are within the required scope, and should include a copy of this Certificate.

Project Description

The EIR should provide a detailed project description. It should identify and explain any project phasing. The EIR should discuss the consistency of the project with local and regional growth management and open space plans, Executive Order (EO) 385 (Planning for Growth), the East Boston Municipal Harbor Plan (MHP), and the Master Plan for East Boston.

Alternatives Analysis

In addition to the No-Build Alternative and the Preferred Alternative, the EIR should discuss alternative building configurations on the site that might result in fewer impacts, e.g. a Chapter 91 Compliant Alternative. The EIR should also evaluate the proposed site layout and describe alternative site layouts for the site that were considered in the Chapter 91 and Section 106 historical review process. This analysis should provide a comparison of the differences between the environmental impacts associated with each of the alternative building designs and site layouts. The building designs and site layouts should analyze alternative locations, landscape layouts, and designs that will be inviting to the public. The proponent should respond to the suggestion from The Boston Harbor Association that the EIR analyze the option of pulling the buildings back to create a horizontal view corridor in line with existing adjacent buildings. The EIR should identify how the site can be improved to maximize visual enjoyment and to minimize wind and shadow impacts.

Waterways Licensing

The EIR must describe how the proposed project will comply with the Waterways Regulations, 310 CMR 9.00. The waterways licensing concerns are building massing, wind and shadow impacts, public views, facilities of public accommodation (FPA), water-based public facilities, open space, parking, and site specific information as outlined in the MassDEP comment letter.

The project is subject to the East Boston Municipal Harbor Plan (MHP). The proponent

is seeking an amendment to the MHP to provide flexibility on building height, waterfront setback, and ground floor use. The EIR should identify the portion of the project site within the Designated Port Area (DPA). It should describe all the development controls on the property and include any supporting documentation. The EIR should contain site and floor plans for the project showing cross-sectional views and elevations of the floor levels. Both the MEPA Office and the permitting agencies need to evaluate site design and layout. The EIR should inventory all existing and proposed site lines. The various design alternatives for the Border and Decatur Street view corridors should be included in the EIR. These design alternatives should use pedestrian level perspectives to assess impacts to water views. The specific ground floor FPAs should be identified in the EIR. The site contains approximately 3.4 acres of filled Commonwealth tidelands.

The EIR should provide sufficient information to document the project's compliance with all applicable provisions of M.G.L. c. 91 and its implementing regulations (310 CMR 9.00) and the East Boston Municipal Harbor Plan. It should present a clear technical analysis of how the project complies with the various dimensional requirements set forth in the regulations as they pertain to new buildings for non-water dependent use. The EIR should show how the project will comply with the limitations on facilities of private tenancy and the requirements for FPAs found in the referenced regulations at 9.51(3)(b) and 9.53(2)(c). It should identify the measures undertaken by the proponent to address the safety and security issues associated with the adjacent Boston Towing operations and the potential marine industrial operations that are proposed for this site.

I ask the proponent to consult with MassDEP and MCZM to determine the issues to be included in the EIR analyzing alternative design and project layouts. The EIR will need to address how the project will meet the open space standards of the Waterways Regulations.

Traffic

The EIR should be prepared in conformance with the EOE/EOTC Guidelines for EIR/EIS Traffic Impact Assessment. It should identify appropriate mitigation measures for areas where the project may impact traffic operations. It should analyze traffic impacts by determining the level-of-service (LOS) at the following affected intersections:

- Central Square;
- Border/Decatur Street;
- Border/Maverick Street;
- Border/Summer Street; and
- Border Street/Project Garage Driveway.

The EIR's LOS analysis should include both a.m. and p.m. weekday peak hours, volume to capacity ratios, a traffic distribution map, and background growth from other proposed projects in the area. Future conditions should cover a five-year time horizon (2012). The EIR should also

include any additional intersections included in the scope issued by the BRA and the Boston Transportation Department (BTD).

The EIR should examine present (2007) and future (2012) build and no-build traffic volumes for all impacted roadways and intersections. It should utilize trip generation estimates based on Land Use Code (LUC) 232 (High Rise Residential Condominium/Townhouse), 110 (General Light Industrial), and estimate trips from the gallery space. Trip generation rates should be quantified and explained in the EIR. The EIR should include a breakdown by transportation mode and the reasoning behind these estimated trip generation numbers. It should fully describe all of the proposed components at the project site to provide accurate trip generation estimations. The EIR should identify the trucking and servicing needs of the proponent's maritime industrial user. It should identify the access needs for the maritime industrial user. The EIR should discuss the suitability of proposed signalization changes. Any Massachusetts Highway Department (MassHighway) or Boston plans for the reconstruction of roadways in the vicinity of the project should be discussed in the EIR. Traffic accident history for the three most recent years for which data are available should be reviewed and presented for the study area.

Parking

Parking at the site will include approximately 139 parking spaces in an underground parking garage and 26 surface parking spaces. The EIR should identify the parking supply in the area, both off- and on-street parking, proposed parking fees, and parking demand from the project. It should describe how the number of parking spaces needed was determined. The EIR should identify the number of parking spaces required by zoning, and recommended by the Boston Transportation Department (BTD) in its citywide standards.

Pedestrian and Bicycle Facilities

The EIR should provide a map showing existing and proposed pedestrian/sidewalk facilities, which are proposed for the project. It should identify the proposed bicycle facility improvements included with this project. The EIR should identify pedestrian demand and how the project will accommodate and improve the Harbor Walk.

Transportation Demand Management (TDM) and Public Transportation

The EIR should identify the potential TDM measures that the proponent will commit to implementing. The proponent should consider the following TDM measures:

- Subsidize MBTA transit passes for employees and residents of the project.
- Provide a parking space to a car-sharing service, such as Zipcar.
- Provide transit information to all residents.
- Consider forming a Transportation Management Agency (TMA) with other nearby residential buildings in order to provide a shuttle bus with connections to Maverick

Station on the Blue Line.

- Provide ridesharing information to building residents and employees.
- Encourage the use of bicycles by providing bicycle racks and bicycle storage for residents as well as shower and locker facilities to employees.

The EIR should identify MBTA bus routes and stops in the neighborhood. Any private shuttle buses operating in the neighborhood should be identified and included.

Wind and Shadow

The EIR should consider specific building design alternatives as a means of reducing adverse wind and shadow impacts on the ground level pedestrian environment. The development of this project site will in and of itself lead to a greater public enjoyment of that area of the East Boston waterfront. The proponent should strive to accomplish this development in a way that is truly inviting. The completion of the Harbor Walk along the East Boston waterfront will be of little utility if it is so windy and shadowed that no one will choose to walk there?.

The EIR's mitigation measures should be guided by the wind tunnel testing of the East Boston harborfront massing. This wind tunnel testing is essential to determine the potential impacts of wind at the pedestrian level. For purposes of the EIR, a wind analysis that evaluates pedestrian level impacts will be sufficient.

Mitigation for wind impacts is essential. This proposed portion of the Harbor Walk along the project site may be impacted by unacceptable winds for walking.

The Harbor Walk north of the project site could be in shadow for significant periods of the day and year. I encourage the proponent to explore mitigation measures that could be implemented to lessen the shadow impacts of the proposed project and improve the quality of the pedestrian experience in that location.

Wetlands:

The Wetland Section of the EIR should contain an alternatives analysis to ensure that all wetland impacts are avoided, and where unavoidable impacts occur, impacts are minimized and mitigated. The EIR should illustrate that the impacts have been minimized and that the project will be accomplished in a manner that is consistent with the Performance Standards of the Wetlands Regulations (310 CMR 10.00).

The EIR should address the significance of the wetland resources on site, including public and private water supply; riverfront areas; flood control; storm damage prevention; fisheries; shellfish; and wildlife habitat. The ENF has indicated that the project would impact the

following wetland resource areas: 100 sf of Land under the Ocean; 100 sf of a Designated Port Area; 19,670 sf of Coastal Beach; and 69,650 sf of Land Subject to Coastal Storm Flowage.

All resource area boundaries, riverfront areas, applicable buffer zones, and 100-year flood elevations should be clearly delineated on a plan. Filled and flowed tidelands should be surveyed, mapped, and located on the plans. Each wetland resource area and riverfront area should be characterized according to 310 CMR 10.00. The text should explain whether the Boston Conservation Commission has accepted the resource area boundaries, and any disputed boundary should be identified. The EIR should provide an accurate measurement of the wetland resource areas that will be affected by the project.

For any amount of required wetlands replication, a detailed wetlands replication plan should be provided in the EIR that, at a minimum, includes: replication location(s) delineated on plans, elevations, typical cross sections, test pits or soil boring logs, groundwater elevations, the hydrology of areas to be altered and replicated, list of wetlands plant species of areas to be altered and the proposed wetland replication species, planned construction sequence, and a discussion of the required performance standards and monitoring.

Comments from the Department of Conservation and Recreation (DCR) identify concern with the below grade parking and note that the structure is likely to be subject to hydrostatic forces. The structure must be constructed consistent with the State Building Code (Sixth Edition, Section 3107.0) requirements. In addition, the proponent should consider the FEMA Technical Bulletin on Non-Residential Floodproofing – Requirements and Certification. The EIR should respond to the concerns identified by DCR and demonstrate that the project will conform to the regulatory standards and requirements.

Drainage

The EIR should evaluate potential drainage impacts on water resources from the project. It should include a detailed description of the existing site's drainage system design in the construction area and identify any proposed changes, including a discussion of the alternatives considered along with their impacts. The EIR should present drainage calculations such as the rates for stormwater runoff for the 10, 25, and 100-year storm events. It should identify the quantity and quality of flows. The proponent should consider recharge rather than discharge to the Harbor.

Proposed activities, including construction mitigation, erosion and sedimentation control, phased construction, and drainage discharges or overland flow into wetland resources, should be evaluated. The location of detention/infiltration basins and their distances from wetland resource areas, and the expected water quality of the effluent from said basins should be identified. This analysis should address current and expected post-construction water quality of the predicted final receiving water bodies. The drainage analysis should insure that on- and off-site wetland resource areas are not impacted by changes in stormwater runoff patterns.

The EIR should address the performance standards of MassDEP's Stormwater Management Policy. It should demonstrate that the project is consistent with this policy. The proponent should use the MassDEP Stormwater Management Handbook when addressing this issue.

The EIR should discuss the consistency of the project with the provisions of the National Pollutant Discharge Elimination System (NPDES) General Permit from the U.S. Environmental Protection Agency for stormwater discharges from a construction site. It should include a discussion of best management practices employed to meet the NPDES requirements, and should include a draft Pollution Prevention Plan in the DEIR.

A maintenance program for the drainage system will be needed to ensure its effectiveness. This maintenance program should outline the actual maintenance operations, sweeping schedule, responsible parties, and back-up systems.

Groundwater/Contaminated Soils

The EIR should describe the dewatering of the construction site. It should identify monitoring measures to avoid significant impacts to the groundwater levels. The EIR should summarize pre-construction groundwater conditions and outline how it will monitor groundwater levels (on- and off-site). It should identify that the design and construction methods for the underslab drainage system have the ability to remove groundwater from the upper aquifer that is critical to keeping wood pilings wet as recommended by the Boston Groundwater Trust (BGT). The BGT recommends that the proponent install another groundwater well before and during construction to ensure that the project is not contributing to a reduction in the groundwater levels. The EIR should address how contamination encountered during construction will be addressed and compliance with the Massachusetts Contingency Plan (MCP) will be achieved. The EIR should present a summary of the results of hazardous waste studies and remediation efforts undertaken at the project site by the proponent to comply with the MCP.

Drinking Water

The EIR should explain any impacts from the project on the drinking water supply and distribution system. It should propose mitigation as appropriate.

Wastewater

The wastewater system in the project area is a combined system for stormwater and sewer. The proponent should propose separation of stormwater/wastewater around the site. The EIR should outline the proponent's efforts to reduce water consumption and thereby reduce wastewater generation. It should identify any capacity deficiencies within the municipal wastewater system to handle the project's additional wastewater flows. In its comment letter, the

MassDEP is requesting this proponent to consider Infiltration/Inflow (I/I) reduction at a minimum of a 4:1 ratio for the sewershed to which the flow is added. The EIR should address this I/I issue and work closely with the Boston Water and Sewer Commission (BWSC), the Massachusetts Water Resources Authority (MWRA), and MassDEP.

Construction Issues

The EIR should include a construction management plan that describes the project's phasing, erosion and sedimentation controls, monitoring, and contingencies. It should present a discussion on potential construction period impacts (including but not limited to noise, vibration, dust, and traffic maintenance) and analyze feasible measures that can avoid or eliminate these impacts. The proponent is proposing minor filling at the site. Truck routes to the proposed construction site should be identified in the EIR. The EIR should identify construction hours and any impacts expected during peak travel hours on local roadways.

The proponent should consider participation in MassDEP's Clean Air Construction Initiative to mitigate diesel emissions associated with the construction period. The EIR should discuss the measures proposed to implement construction-period diesel emission mitigation, including the retrofit of construction equipment and the use of on-road low-sulfur diesel (LSD) fuel.

Visual/Aesthetics

The EIR should include a visual resource assessment . The visual resource assessment should include a conceptual-level landscaping plan and building elevations from all sides.

Historical Resources/Cultural Issues

The project site is located within the "City-Wide Comprehensive Industrial Survey, Boston, Massachusetts, 1996-1997" conducted on behalf of the Boston Landmarks Commission and MHC and may be eligible for listing in the National Register of Historic Places. The EIR should report on the results of the reconnaissance historic and archaeological survey to be conducted at the project site by the proponent. The scope of the investigation should include comprehensive documentary research to trace the land use and development history of the property, and to locate and identify historic properties with a recommendation for a project Area of Potential Effect, an opinion of effect, and recommendations to avoid, minimize, or mitigate adverse effects.

The survey scope should include a review of the data from the geotechnical coring for information about subsurface conditions. Additional subsurface investigations may be recommended to locate and identify important archaeological features and deposits. Available recent high resolution aerial photographs taken at low tide, and accurate maps of the property should be reviewed and included with the report of the investigation to assist in documenting the

location and condition of the pier pilings, marine railway, and other potentially important site features, including any submerged cultural resources. The report should include any recommendations for any additional investigations and to preserve important site characteristics that can be incorporated into the project design. The results should be taken into account in developing the public interpretation initiative as part of the public benefit and access plan. The impacts of wind and shadow on adjacent and proximate historic properties should also be considered in the EIR. The potential shadow impacts should be superimposed on maps with the historic properties identified.

Sustainable Design

To the maximum feasible extent, the proponent should incorporate sustainable design elements into the project design. The EIR should summarize the proponents' efforts to obtain a Leadership in Energy and Environmental Design (LEED) Certification for each proposed building. The basic elements of a sustainable design program may include, but not be limited to, the following measures:

- optimization of natural day lighting, passive solar gain, and natural cooling;
- use of energy efficient HVAC and lighting systems, appliances and other equipment, and use of solar preheating of makeup air;
- favoring building supplies and materials that are non-toxic, made from recycled materials, and made with low embodied energy;
- provision of easily accessible and user-friendly recycling system infrastructure into building design;
- development of a solid waste reduction plan;
- development of an annual audit program for energy consumption, waste streams, and use of renewable resources;
- LEED green building standards; and
- water conservation and reuse of wastewater and stormwater.

Mitigation

The EIR should include a separate chapter on mitigation measures. This chapter on mitigation should include a proposed Section 61 Findings for all state permits. The proposed Section 61 Findings should contain a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation and the identification of the parties responsible for implementing the mitigation. A schedule for the implementation of mitigation should also be included.

In the ENF, the proponent has committed to provide the following mitigation measures:

- Extend the Harbor Walk along the seaward edge of the site.
- Create approximately 50,318 sf of open space

- Remove all the deteriorated timber pilings within the watershed of the project site.
- Provide public access ways from Border Street to the water's edge on a site that has no public access.
- Provide FPAs (community gallery with restrooms with programs for community residents) to a site that has none.
- Provide two finger piers supporting a marine travel lift and a marine industrial building.
- Construct a new stormwater overflow for the BWSC stormwater system on the project site.

The EIR should describe the proponent's efforts to establish the Harbor Walk and public open space as well as FPAs on the ground floor of the building as part of its Chapter 91 Licensing process. It should describe the proponent's efforts to work with the community regarding the types of public facilities to be provided at this location. The proponent should consider working with The Boston Harbor Association and other East Boston advocacy groups to improve Boston's harbor.

Response to Comments

The EIR should respond to the comments received to the extent that the comments are within the subject matter of this scope. Each comment letter should be reprinted in the EIR. I defer to the proponent as it develops the format for this section, but the Response to Comments section should provide clear answers to the questions raised.

Circulation

The EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should also be sent to the list of "comments received" below and to Boston officials. A copy of the EIR should be made available for public review at the Boston Public Library (East Boston Branch).

December 12, 2007

DATE



Ian A. Bowles

Comments received :

Boston Groundwater Trust, 11/12/07

MassDEP/Boston, 11/13/07

MHC, 11/16/07

Senator Anthony Petrucci, 11/19/07

Fort Point Assoc., 11/28/07

MA Board of Underwater Archaeological Resources, 11/26/07

EEA #14123

ENF Certificate

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City Councilor Salvatore LaMattina, 11/28/07

New Street Realty Trust, 11/28/07

Pepe & Hazard, 11/28/07

MCZM, 11/28/07

MWRA, 12/3/07

MassDEP/NERO, 12/3/07

BWSC, 12/3/07

DCR, 12/3/07

BED, 12/4/07

The Boston Harbor Assoc., 12/5/07

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